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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/641,866

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Charles E. Bernasconi

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05/29/2009

FOLEY AND LARDNER LLP

SUITE 500

3000 K STREET NW

WASHINGTON, DC 20007

EXAMINER

RAPILLO, KRISTINE K

ART UNIT

PAPER NUMBER

3626

MAIL DATE

DELIVERY MODE

05/29/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/641,866

Applicant(s)

BERNASCONI ET AL.

Examiner

KRISTINE K. RAPILLO

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 89-92, 98-110, 113, 114 and 121-140 is/are pending in the application.
- 4a) Of the above claim(s) 1-88, 93-97, 111-112, 115-120 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 89-92, 98-110, 113, 114 and 121-140 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date See Continuation Sheet
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Attachment(s) 3. Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :4/30/2004; 11/4/2004; 5/21/2007; 9/26/2008; 3/12/2009.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed March 12, 2009. Claims 88, 97, and 115 – 120 are cancelled (claims 1 – 87, 93 – 96 and 111 - 112 were previously cancelled). Claims 89 – 92, 98 – 110, 113 - 114, and 121 - 122 are amended. Claims 123 - 140 are new. Claims 89 – 92, 98 – 110, and 113 – 114, and 121 - 140 are presented for examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 123 and 132 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "substantially" is subjective as what is substantial to one may not be substantial to another. Therefore, claims 123 and 132 are found to be vague and indefinite.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 89 – 91, 98 – 101, 103, 105 – 106, 108, 121 – 122, and 123 - 140 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al., herein after Clark (U.S. Patent Number 5,164,897) in view of Rogers (Beth Rogers. What's New. HRMagazine. Alexandria: Apr 1998. Vol. 43, Iss. 5; pg. 203, 4 pgs.), further in view of McGovern et al., herein after McGovern (U.S. Patent Number 5,978,768).

In regard to claim 123 (New), Clark teaches a system comprising: one or more electronic databases having information about a plurality of open positions and qualifications for the open positions, and qualifications of a plurality of workers (column 2, lines 29 – 65; column 5, lines 9 – 23; and, column 16, line 43 through column 17, line 12 where Clark discloses an open job requirement file which contains job criteria - the Examiner equates job criteria to job qualifications or requirements, employee qualifications – i.e. experience, skills, and open job positions); one or more computers configured for filtering to determine, for each of a plurality of the respective workers, one or more of the open positions in the one or more databases for which the respective worker is qualified (column 5, lines 9 – 23 and column 16, line 43 through column 17,

line 12 where Clark discloses a system in which a database search is conducted by comparing the skills and qualifications of a potential employee to the job requirements/criteria; thus filtering the prospective workers qualifications by only selecting those workers who match the requirements of the job); the one or more computers configured for updating electronically the information in the one or more databases to include information on the new open position (column 9, line 60 through column 10, line 18); the one or more computers configured for automatically making available for selection the new open position to one or more additional respective worker web pages associated only with one or more additional respective workers that are qualified, if one of the one or more preferred workers has not selected the new open position before expiration of the specified time period (column 10, lines 34 - 40 and column 15, lines 53 - 55); and the one or more computers configured for assigning the new open position, after the expiration of the specified time period, to one of the qualified workers for which the new open position is made available for selection in substantially immediate response to receipt of an electronic selection of the new open position from that qualified worker (column 7, lines 57 - 67).

Rogers teaches a system comprising the one or more computers configured for posting a plurality of web pages, with each different respective web page in this plurality associated only with a different one of the respective workers and accessible by a respective worker code, wherein, for each respective worker web page associated only with the respective worker, the posting comprising posting one or more of the open

positions for which the respective worker is qualified (Paragraph 16) and the one or more computers configured for notifying the one or more preferred workers that the new open position is now available for selection by at least posting information about the new open position to each of the respective one or more worker web pages associated only with the one or more respective preferred workers (paragraph 16).

McGovern teaches a system comprising:

the one or more computers configured for obtaining information about a new open position (Figures 3 and 8; column 9, lines 18 – 26) where McGovern discloses entering job description information;

the one or more computers configured for obtaining information about one or more of the workers that are preferred ("a preferred worker") for the new open position (Figure 29; Abstract; column 9, lines 41 – 55; column 17, lines 44 – 67; column 18, lines 1 - 10; and, column 18, lines 23 – 38) where McGovern discloses a system of displaying a list of received resumes (the Examiner equates the resumes to information about one or more workers) and display a selected resume (the Examiner equates the selected resume to that of a preferred worker) whose qualifications and skills fit the open position;

the one or more computers configured for automatically assigning the new open position only to one of the one or more preferred workers during a specified time period, in substantially immediate response to receipt of an electronic selection of the new open position from one of the one or more preferred workers and substantially immediately

removing the position as an available for selection open position (Figure 6; column 8, lines 14 - 26; and, column 10, line 66 through column 11, line 18) where McGovern discloses a system of deleting or deactivating the position from the database/web site;

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the one or more computers configured for obtaining information about a new open position; the one or more computers configured for obtaining information about one or more of the workers that are preferred ("a preferred worker") for the new open position; the one or more computers configured for automatically assigning the new open position only to one of the one or more preferred workers during a specified time period, in substantially immediate response to receipt of an electronic selection of the new open position from one of the one or more preferred workers and substantially immediately removing the position as an available for selection open position as taught by McGovern, within the system of Clark and Rogers, with the motivation of providing a method and apparatus to organize and screen job seekers on a computerized network, and to notify a job seeker when a suitable position is available (column 3, lines 55 – 65).

In regard to claim 89 (Currently amended), Clark, Rogers, and McGovern teach the system of claim 123. Clark teaches a system wherein the one or more computers are configured to post on each web page associated only with a respective one of the workers only open positions for which the respective one worker is qualified and for

which the position is currently available for selection to the one worker to accept (Figure 9; column 16, line 67 through column 17, line 12).

Rogers teaches posting open positions on a web page for a respective worker (paragraph 16).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include posting open positions on a web page for a respective worker as taught by Rogers, within the system of Clark and McGovern, with the motivation of providing a tool in which job seekers can manage job search activities (paragraph 16).

In regard to claim 90 (Currently amended), Clark, Rogers, and McGovern teach the system of claim 123. Clark teaches a method wherein the one or more computers are configured to post to each respective web page associated only with a respective one of the workers only the open positions that the respective one worker is qualified to fill (Abstract; Figure 9; column 7, lines 59 – 65).

Rogers teaches posting open positions on a web page for a respective worker (paragraph 16).

The motivation to combine the teachings of Clark, Rogers, and McGovern is discussed in the rejection of claim 89, and incorporated herein.

In regard to claim 91 (Currently amended), Clark, Rogers, and McGovern teach the system of claim 123. Clark teaches a system further comprising: the one or more computers configured to filter out for a respective one of the workers one or more open positions for which the respective one worker has been rejected (Abstract and column 4, line 55 through column 5, line 20). Clark fails to explicitly teach filtering open positions for a worker.

Rogers teaches posting open positions on a web page for a respective worker (paragraph 16).

McGovern teaches a system comprising filtering open positions for a worker (Abstract; Figures 33 and 34; and, column 3, lines 55 – 60) and the one or more computers configured to post to the respective web page associated only with the respective one worker only the open positions that the respective one worker is qualified to fill and that have not been filtered out for the respective one worker (column 18, lines 30 – 38).

The motivation to combine the teachings of Clark, Rogers, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 101 (Currently amended), Clark, Rogers, and McGovern teach the method of claim 132. Clark teaches a method further comprising allowing access to the respective web page associated only with a respective one of the workers in

response to receiving at least one pass code and verifying the received at least one pass code (column 2, lines 66 – 68).

In regard to claim 103 (Currently amended), Clark, Rogers, and McGovern teach the system of claim 123. Clark teaches a system with the one or more computers configured so that each web page associated with a respective one of the workers posts only the open positions that the respective one worker is qualified to fill and has not been rejected by a worker whose absence creates the specific open position (Abstract and column 4, line 55 through column 5, line 20). Clark does not explicitly teach a web page, however, this deficiency is disclosed by McGovern.

Rogers teaches posting open positions on a web page for a respective worker (paragraph 16).

The motivation to combine the teachings of Clark, Rogers, and McGovern is discussed in the rejection of claim 89, and incorporated herein.

In regard to claim 105 (Currently amended), Clark, Rogers, and McGovern teach the system of claim 123.

Rogers teaches posting open positions on a web page for a respective worker (paragraph 16).

McGovern teaches a system with the one or more of computers configured to post information about the new open position to the one or more respective web pages

associated only with the one or more respective preferred workers during the specified time period (Figures 10, 13, 11, and 14; column 7, lines 19 – 30; column 10, lines 47 – 65; and, column 16, lines 1 – 4).

The motivation to combine the teachings of Clark, Rogers, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 109 (Currently amended), Clark, Rogers, and McGovern teach the system of claim 123.

McGovern teaches a system with the one or more of computers further configured to notify the one or more preferred workers via e-mail or e-pager (Abstract; column 3, lines 61 – 65; column 4, lines 31 – 44; and claims 8 and 27).

The motivation to combine the teachings of Clark, Rogers, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 121 (Currently amended), Clark, Rogers, and McGovern teach the system of claim 123.

McGovern teaches a system further comprising means for notifying electronically the one or more preferred workers about the new open position (column 4, lines 31 – 44).

The motivation to combine the teachings of Clark, Rogers, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 124 (New), Clark, Rogers, and McGovern teach the system of claim 123.

McGovern teaches a system wherein the one or more computers are further configured for receiving information designating one or more of the workers as the one or more preferred workers for the new open position (Figure 29; column 3, lines 55 – 60; column 9, lines 41 – 55; column 17, lines 44 - 67; and column 18, lines 1 - 38).

The motivation to combine the teachings of Clark, Rogers, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 125 (New), Clark, Rogers, and McGovern teach the system of claim 123.

Rogers teaches posting open positions on a web page for a respective worker (paragraph 16).

McGovern teaches a system further comprising the one or more computers configured for specially marking the new open position on the respective web pages associated only with the one or more respective preferred workers, so that on each respective web page associated only with one of the respective preferred workers, the new open position is differentiated from other open positions listed on that respective web page associated only with the one respective preferred worker (Figure 31 and column 17, lines 44 – 58).

The motivation to combine the teachings of Clark, Rogers, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 126 (New), Clark, Rogers, and McGovern teach the system of claim 123.

Rogers teaches posting open positions on a web page for a respective worker (paragraph 16).

McGovern teaches a system further comprising the one or more computers configured for posting or otherwise electronically communicating a confirmation number to the worker in response to receiving the electronic selection of the new open position from the worker (Figures 7 and 35; column 4, lines 39 – 44) where electronic communication can be sent via the computer. The electronic message disclosed by McGovern can include a confirmation number.

The motivation to combine the teachings of Clark, Rogers, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 127 (New), Clark, Rogers, and McGovern teach the system of claim 123.

Clark teaches a system further comprising the one or more computers configured for filtering to prevent posting of one of the open positions to one of the respective worker web pages based on one or more preferences associated with the respective

worker in the one or more databases (column 5, lines 9 – 23 and column 16, line 43 through column 17, line 12). Clark does not explicitly teach posting open positions to worker web pages, however, this deficiency is cured by Rogers.

Rogers teaches posting open positions on a web page for a respective worker (paragraph 16).

The motivation to combine the teachings of Clark, Rogers, and McGovern is discussed in the rejection of claim 92, and incorporated herein.

In regard to claim 128 (New), Clark, Rogers, and McGovern teach the system of claim 123. Clark teaches a system further comprising the one or more computers configured for filtering to prevent posting of one of the open positions to one of the respective worker web pages based on the position not being available for selection to the respective worker (column 5, lines 9 – 23 and column 16, line 43 through column 17, line 12). Clark does not explicitly teach posting open positions to worker web pages, however, this deficiency is cured by Rogers.

Rogers teaches posting open positions on a web page for a respective worker (paragraph 16).

The motivation to combine the teachings of Clark, Rogers, and McGovern is discussed in the rejection of claim 92, and incorporated herein.

In regard to claim 129 (New), Clark, Rogers, and McGovern teach the system of claim 123. Clark teaches a system further comprising the one or more computers configured for filtering to prevent posting of any open position to the respective web page of any respective worker that is not qualified to fill the open position (column 5, lines 9 – 23 and column 16, line 43 through column 17, line 12). Clark does not explicitly teach posting open positions to worker web pages, however, this deficiency is cured by Rogers.

Rogers teaches posting open positions on a web page for a respective worker (paragraph 16).

The motivation to combine the teachings of Clark, Rogers, and McGovern is discussed in the rejection of claim 92, and incorporated herein.

In regard to claim 130 (New), Clark, Rogers, and McGovern teach the system of claim 123.

Rogers teaches posting open positions on a web page for a respective worker (paragraph 16).

McGovern teaches a system further comprising the one or more computers configured for posting of the new open position only to the one or more respective web pages associated with the one or more respective preferred workers during the specified period of time (Figure 36).

The motivation to combine the teachings of Clark, Rogers, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 131 (New), Clark, Rogers, and McGovern teach the system of claim 123.

Rogers teaches posting open positions on a web page for a respective worker (paragraph 16).

McGovern teaches a system wherein the one or more computers are configured for automatically making available for selection the new open position to a plurality of additional respective worker web pages associated only with a plurality of additional respective workers that are qualified, if one of the one or more preferred workers has not selected the new open position before expiration of the specified time period (Figure 7 and column 17, lines 44 - 58) where a score is assigned ranking the candidates resume, thus providing the user with a listing of qualified candidates..

The motivation to combine the teachings of Clark, Rogers, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

Method claims 98 - 100, 106, 108, 122, and 132 - 140 repeat the subject matter of system claims 89 - 91, 103, 105, 109, 121, and 123 - 131 as a series of steps rather than a set of apparatus elements. As the underlying elements of claim 89 - 91, 103, 105, 109, 121, and 123 - 131 have been shown to be fully disclosed by the teachings of

Clark, Rogers, and McGovern in the above rejections of claim 89 – 91, 103, 105, 109, 121, and 123 - 131, it is readily apparent that the system disclosed by Clark, Rogers, and McGovern perform these steps. As such, these limitations (98 - 100, 106, 108, 122, and 132 - 140) are rejected for the same reasons above for the system claims 89 – 91, 103, 105, 109, 121, and 123 - 131, and incorporated herein.

6. Claims 92, 102, 104, 107, and 113 – 114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al., herein after Clark (U.S. Patent Number 5,164,897) in view of Rogers (Beth Rogers. What's New. HRMagazine. Alexandria: Apr 1998. Vol. 43, Iss. 5; pg. 203, 4 pgs.), further in view of McGovern et al., herein after McGovern (U.S. Patent Number 5,978,768) as applied to claim 123 above, and further in view of Thompson (U.S. Patent Number 6,334,133).

In regard to claim 92 (Currently amended), Clark, Rogers, and McGovern teach the system of claim 123.

Thompson teaches a system wherein the workers are substitute teachers (column 8, lines 14 - 63).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system wherein the workers are substitute teachers, as taught by Thompson, within the system of Clark, Rogers, and McGovern,

with the motivation of providing a computerized tool for the placement of potential employees (column 10, liens 32 – 41).

In regard to claim 104 (Currently amended), Clark, Rogers, and McGovern teach the system of claim 123.

Thompson teaches a system with the one or more of computers further configured to receive an administrative designation of a worker who has accepted an open position at a location, for another open position at the same location for a different day (column 4, lines 65 through column 5, line 4 and column 10, lines 8 - 20) where acceptance of a position, regardless of the location is documented. The summary of position acceptance will list the locations of positions accepted (Figures 10 and 12).

The motivation to combine the teachings of Clark, Rogers, McGovern, and Thompson is discussed in the rejection of claim 92, and incorporated herein.

In regard to claim 113 (Currently amended), Clark, Rogers, and McGovern teach the system of claim 123.

Thompson teaches a system with the one or more of computers further configured to post an assignment of the new open position automatically after receiving an electronic acceptance of the specific open position from one of the one or more preferred workers (column 4, lines 65 through column 5, line 4).

The motivation to combine the teachings of Clark, Rogers, McGovern, and Thompson is discussed in the rejection of claim 92, and incorporated herein.

Method claims 102, 107, and 114 repeat the subject matter of system claims 92, 104, and 113 as a series of steps rather than a set of apparatus elements. As the underlying elements of claim 92, 104, and 113 have been shown to be fully disclosed by the teachings of Clark, Rogers, McGovern, and Thompson in the above rejections of claim 92, 104, and 113, it is readily apparent that the system disclosed by Clark, Rogers, McGovern, and Thompson perform these steps. As such, these limitations (102, 107, and 114) are rejected for the same reasons above for the system claims 92, 104, and 113, and incorporated herein.

Response to Arguments

7. Applicant's arguments filed March 12, 2009 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed March 12, 2009.

8. In response to the Applicant's argument, it is respectfully submitted that the Examiner has applied new prior art to the amended. The Examiner notes that the amended limitations were not in the previously pending claims as such; Applicant's remarks with regard to the application of Thompson and Clark are moot in light of the addition of the McGovern and Rogers references.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571) 270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on (571) 272-6770. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

KKR
May 28, 2009

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686